

## United States District Court

SOUTHERN

DISTRICT OF

TEXAS

McALLEN DIVISION

UNITED STATES OF AMERICA

V.

## CRIMINAL COMPLAINT

David Iturrubiate-Guerrero PRINCIPAL

YOB: 1985

the United Mexican States  
 United States District Court  
 Southern District of Texas  
 FILED

Case Number:

M-16-1764 -M

SEP 22 2016

(Name and Address of Defendant)

Clerk of Court

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 21, 2016 in Hidalgo County, in the Southern District of Texas defendants(s) did,  
 (Track Statutory Language of Offense)

knowing or in reckless disregard of the fact that Julio Cesar Ponce-Andrade and Rogelio Sanchez-Grajales, citizens and nationals of the United Mexican States, along with five (5) other undocumented aliens, for a total of seven (7), who had entered the United States in violation of law, did knowingly and intentionally conspire and agree together with other persons known and unknown to transport, or move or attempt to transport said aliens in furtherance of such violation of law within the United States, that is, from a location near Pharr, Texas to the point of arrest near Pharr, Texas,

in violation of Title 8 United States Code, Section(s) 1324(a)(1)(A)(v)(I), 1324 (a)(1)(A)(ii)

I further state that I am a(n) U.S. Senior Border Patrol Agent and that this complaint is based on the following facts:

On September 21, 2016, Border Patrol Agents (BPA) responded to a camera alert near the Oratorio Church grounds located at 11317 S. Jackson Road in Pharr, Texas.

Agents advised that seven subjects were observed at the levee, then crossed a canal, and went inside the Oratorio Church grounds. Responding agents encountered the subjects hunkered down between some vehicles. Agents conducted an immigration inspection on all the subjects and they were all found to be in the United States illegally.

While Agents continued to search the area for additional subjects, a black Chevrolet Tahoe entered the Church grounds. Agents approached the driver and asked him what he was doing there. The driver told agents he was

## SEE ATTACHED:

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

approved by  
 [Signature]

[Signature]  
 Signature of Complainant

Sworn to before me and subscribed in my presence,

Nicolas Cantu, Jr. Senior Patrol Agent

Printed Name of Complainant

September 22, 2016

at McAllen, Texas

Date

City and State

Dorina Ramos, U. S. Magistrate Judge  
 Name and Title of Judicial Officer

[Signature]  
 Signature of Judicial Officer

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN, TEXAS**

**ATTACHMENT TO CRIMINAL COMPLAINT:**

**M-16-1764 -M**

**RE: David Iturrubiate-Guerrero**

**CONTINUATION:**

there for church, then stated he was getting married and needed paperwork, and then that he was just there to check what time the church opened.

Border Patrol Agent Suarez conducted an immigration check on the driver. The driver, identified as David Iturrubiate-Guerrero, told agents he was a legal permanent resident. However, Iturrubiate did not have his Permanent Resident Card or Drivers license in his possession.

BPA Suarez recognized the name from muster briefings, which alerted agents of Iturrubiate as being a possible scout or load driver for human smuggling.

Iturrubiate gave verbal consent to search his phone. Iturrubiate showed BPA Suarez the call log but BPA Suarez only saw two calls and both were to his wife. BPA Suarez suspected that the call log history had been deleted.

BPA Suarez then received consent from Julio Cesar Ponce, an undocumented alien arrested moments before, to search his cell phone. The search revealed Iturrubiate's cell phone number in the call log.

Iturribaite and the seven undocumented aliens were arrested and transported to the Weslaco Border Patrol Station for processing.

**Principal Statement**

David Iturrubiate-Guerro was read his Miranda Rights. He understood his rights and provided a sworn statement without the presence of an attorney.

Iturrubiate stated he received a call from a man in Mexico. He was asked to help smuggle some aliens. Iturrubiate claims one of the aliens in the group was going to call him when they were close to the road. The man that called him from Mexico had already given him an idea of where to pick them up. He believed he would get paid \$100 per alien and the money would be wired from Mexico. Iturrubiate stated he had scouted and smuggled aliens in the past but not anymore. He only did it this time because he needed extra cash to pay off some bills.

**Material Witness Statements**

Julio Cesar Ponce-Andrade and Rogelio Sanchez-Grajales were both read their Miranda Rights. They both understood their rights.

Ponce, a citizen of Mexico, stated he made the smuggling arrangements for \$100 USD. He was given a phone number by the smuggler in case he got lost. He crossed the Rio Grande River with several subjects and told to walk through the brush. The smuggler was on the phone with him until they reached a specific location. The smuggler then told him a person would call him to pick them up.

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Sanchez, a citizen of Mexico, stated his brother made the smuggling arrangements and doesn't know how much it cost. A brush guide helped him and several others cross into the United States. Before they crossed, the smuggler wrote down everyone's cell phone number. The brush guide took them to a church and told them to stay there. He was told someone would call to pick him and the others up.